

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE NO. 2 FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILLS NOS. 302 & 38**

**91ST GENERAL ASSEMBLY**

0265L.15T

2001

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**AN ACT**

To repeal sections 302.302, 302.304, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 479.500, 577.012, 577.021, 577.023, 577.037, 577.041, 577.600 and 577.602, RSMo 2000, relating to traffic offenses, and to enact in lieu thereof eighteen new sections relating to the same subject, with penalty provisions, an effective date for certain sections.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 302.302, 302.304, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 479.500, 577.012, 577.021, 577.023, 577.037, 577.041, 577.600 and 577.602, RSMo 2000, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 302.302, 302.304, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 304.027, 479.500, 577.012, 577.021, 577.023, 577.037, 577.041, 577.600 and 577.602, to read as follows:

302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 . . . . . 2 points  
(except any violation of municipal stop sign ordinance where no accident

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

9	is involved	1 point)
10	(2) Speeding	
11	In violation of a state law	3 points
12	In violation of a county or municipal ordinance	2 points
13	(3) Leaving the scene of an accident in violation of section	
14	577.060, RSMo	12 points
15	In violation of any county or municipal ordinance	6 points
16	(4) Careless and imprudent driving in violation of subsection	
17	4 of section 304.016, RSMo	4 points
18	In violation of a county or municipal ordinance	2 points
19	(5) Operating without a valid license in violation of subdivision (1)	
20	or (2) of subsection 1 of section 302.020:	
21	(a) For the first conviction	2 points
22	(b) For the second conviction	4 points
23	(c) For the third conviction	6 points
24	(6) Operating with a suspended or revoked license prior to	
25	restoration of operating privileges	12 points
26	(7) Obtaining a license by misrepresentation	12 points
27	(8) For the first conviction of driving while in an intoxicated	
28	condition or under the influence of controlled substances or drugs	8 points
29	(9) For the second or subsequent conviction of any of the following	
30	offenses however combined: driving while in an intoxicated condition,	
31	driving under the influence of controlled substances or drugs or driving	
32	with a blood alcohol content of [ten-hundredths] <b>eight-hundredths</b> of	
33	one percent or more by weight	12 points
34	(10) For the first conviction for driving with blood alcohol content	
35	[ten-hundredths] <b>eight-hundredths</b> of one percent or more by weight	
36	In violation of state law	8 points
37	In violation of a county or municipal ordinance or federal	
38	law or regulation	8 points
39	(11) Any felony involving the use of a motor vehicle	12 points
40	(12) Knowingly permitting unlicensed operator to operate	
41	a motor vehicle	4 points
42	(13) For a conviction for failure to maintain financial responsibility	
43	pursuant to county or municipal ordinance or pursuant to section	
44	303.025, RSMo	4 points

45           2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess  
46 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section  
47 302.020, when the director issues such operator a license or permit pursuant to the provisions  
48 of sections 302.010 to 302.340.

49           3. An additional two points shall be assessed when personal injury or property damage  
50 results from any violation listed in subsection 1 of this section and if found to be warranted and  
51 certified by the reporting court.

52           4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this  
53 section constitutes both a violation of a state law and a violation of a county or municipal  
54 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an  
55 offense arising out of the same occurrence could be construed to be a violation of subdivisions  
56 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more  
57 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for  
58 offenses arising out of the same occurrence.

59           5. The director of revenue shall put into effect a system for staying the assessment of  
60 points against an operator. The system shall provide that the satisfactory completion of a  
61 driver-improvement program or, in the case of violations committed while operating a  
62 motorcycle, a motorcycle-rider training course approved by the director of the department of  
63 public safety, by an operator, when so ordered and verified by any court having jurisdiction over  
64 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a  
65 violation committed in a commercial motor vehicle as defined in section 302.700, shall be  
66 accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision  
67 (1), (2)[,] or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For  
68 the purposes of this subsection, the driver-improvement program shall meet or exceed the  
69 standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case  
70 of a violation which occurred during the operation of a motorcycle, the program shall meet the  
71 standards established by the director of the department of public safety pursuant to sections  
72 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider  
73 training course shall not be accepted in lieu of points more than one time in any thirty-six-month  
74 period and shall be completed within sixty days of the date of conviction in order to be accepted  
75 in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions  
76 of this subsection shall, within fifteen days after completion of the driver-improvement program  
77 or motorcycle-rider training course by an operator, forward a record of the completion to the  
78 director, all other provisions of the law to the contrary notwithstanding. The director shall  
79 establish procedures for record keeping and the administration of this subsection.

302.304. 1. The director shall notify by ordinary mail any operator of the point value

2 charged against the operator's record when the record shows four or more points have been  
3 accumulated in a twelve-month period.

4         2. In an action to suspend or revoke a license or driving privilege under this section  
5 points shall be accumulated on the date of conviction. No case file of any conviction for a  
6 driving violation for which points may be assessed pursuant to section 302.302 may be closed  
7 until such time as a copy of the record of such conviction is forwarded to the department of  
8 revenue.

9         3. The director shall suspend the license and driving privileges of any person whose  
10 driving record shows the driver has accumulated eight points in eighteen months.

11         4. The license and driving privilege of any person whose license and driving privilege  
12 have been suspended under the provisions of sections 302.010 to 302.540 except those persons  
13 whose license and driving privilege have been suspended under the provisions of subdivision (8)  
14 of subsection 1 of section 302.302 or has accumulated sufficient points together with a  
15 conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of  
16 financial responsibility with the department of revenue, in accordance with chapter 303, RSMo,  
17 and is otherwise eligible, shall be reinstated as follows:

18         (1) In the case of an initial suspension, thirty days after the effective date of the  
19 suspension;

20         (2) In the case of a second suspension, sixty days after the effective date of the  
21 suspension;

22         (3) In the case of the third and subsequent suspensions, ninety days after the effective  
23 date of the suspension. Unless proof of financial responsibility is filed with the department of  
24 revenue, a suspension shall continue in effect for two years from its effective date.

25         5. The period of suspension of the driver's license and driving privilege of any person  
26 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has  
27 accumulated sufficient points together with a conviction under subdivision (10) of subsection  
28 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving  
29 privilege issued by the director of revenue for the limited purpose of driving between a residence  
30 and a place of employment, or to and from an alcohol education or treatment program, or for  
31 both between a residence and a place of employment and to and from such a program. Upon  
32 completion of such period of restricted driving privilege, upon compliance with other  
33 requirements of law and upon filing of proof of financial responsibility with the department of  
34 revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be  
35 reinstated.

36         6. If the person fails to maintain proof of financial responsibility in accordance with  
37 chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

38           7. The director shall revoke the license and driving privilege of any person when the  
39 person's driving record shows such person has accumulated twelve points in twelve months or  
40 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation  
41 period of any person whose license and driving privilege have been revoked under the provisions  
42 of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the  
43 department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall  
44 be terminated by a notice from the director of revenue after one year from the effective date of  
45 the revocation. Unless proof of financial responsibility is filed with the department of revenue,  
46 except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for  
47 a period of two years from its effective date. If the person fails to maintain proof of financial  
48 responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege  
49 shall be rerevoked. Any person whose license and driving privilege have been revoked under  
50 the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of  
51 the revocation from the director, pass the complete driver examination and apply for a new  
52 license before again operating a motor vehicle upon the highways of this state.

53           8. If, prior to conviction for an offense that would require suspension or revocation of  
54 a person's license under the provisions of this section, the person's total points accumulated are  
55 reduced, pursuant to the provisions of section 302.306, below the number of points required for  
56 suspension or revocation pursuant to the provisions of this section, then the person's license shall  
57 not be suspended or revoked until the necessary points are again obtained and accumulated.

58           9. If any person shall neglect or refuse to surrender the person's license, as provided  
59 herein, the director shall direct the state highway patrol or any peace or police officer to secure  
60 possession thereof and return it to the director.

61           10. Upon the issuance of a reinstatement or termination notice after a suspension or  
62 revocation of any person's license and driving privilege under the provisions of sections 302.010  
63 to 302.540, the accumulated point value shall be reduced to four points, except that the points  
64 of any person serving as a member of the armed forces of the United States outside the limits of  
65 the United States during a period of suspension or revocation shall be reduced to zero upon the  
66 date of the reinstatement or termination of notice. It shall be the responsibility of such member  
67 of the armed forces to submit copies of official orders to the director of revenue to substantiate  
68 such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary  
69 notwithstanding, the effective date of the four points remaining on the record upon reinstatement  
70 or termination shall be the date of the reinstatement or termination notice.

71           11. No credit toward reduction of points shall be given during periods of suspension or  
72 revocation or any period of driving under a hardship driving privilege granted by a court.

73           12. Any person or nonresident whose license or privilege to operate a motor vehicle in

74 this state has been suspended or revoked under this or any other law shall, before having the  
75 license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee  
76 of twenty dollars which shall be in addition to all other fees provided by law.

77 13. Notwithstanding any other provision of law to the contrary, if after two years from  
78 the effective date of any suspension or revocation issued under this chapter, the person or  
79 nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such  
80 license or privilege to operate a motor vehicle in this state.

81 14. No person who has had a license to operate a motor vehicle suspended or revoked  
82 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of  
83 subsection 1 of section 302.302 shall have that license reinstated until such person has  
84 participated in and successfully completed a substance abuse traffic offender program defined  
85 in section 302.010, [except] **or a program determined to be comparable by the department**  
86 [may waive such requirement upon completion of a comparable program or upon good cause  
87 shown or the court may waive such requirement upon good cause shown. The court in making  
88 this determination shall consider the person's driving record, the circumstances surrounding the  
89 offense and the likelihood of the person committing a like offense in the future]. Assignment  
90 recommendations, based upon the needs assessment as described in subdivision (21) of section  
91 302.010, shall be delivered in writing to the person with written notice that the person is entitled  
92 to have such assignment recommendations reviewed by the court if the person objects to the  
93 recommendations. The person may file a motion in the associate division of the circuit court,  
94 on a printed form provided by the state courts administrator, to have the court hear and determine  
95 such motion pursuant to the provisions of chapter 517, RSMo[, after reviewing such assessment].  
96 The motion shall name the person or entity making the needs assessment as the respondent and  
97 a copy of the motion shall be served upon the respondent in any manner allowed by law. **Upon**  
98 **hearing the motion, the court may modify or waive any assignment recommendation that**  
99 **the court determines to be unwarranted based upon a review of the needs assessment, the**  
100 **person's driving record, the circumstances surrounding the offense, and the likelihood of**  
101 **the person committing a like offense in the future, except that the court may modify but**  
102 **may not waive the assignment to an education or rehabilitation program of a person**  
103 **determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of**  
104 **a person determined to have operated a motor vehicle with fifteen-hundredths of one**  
105 **percent or more by weight in such persons' blood.** [Such assessment and] Compliance with  
106 the court determination of the motion shall satisfy the provisions of this section for the purpose  
107 of reinstating such person's license to operate a motor vehicle. The respondent's personal  
108 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless  
109 directed by the court.

110           15. The fees for the program authorized in subsection 14 of this section, or a portion  
111 thereof to be determined by the department of mental health, shall be paid by the person enrolled  
112 in the program. Any person who is enrolled in the program shall pay, in addition to any fee  
113 charged for the program, a supplemental fee of sixty dollars. The administrator of the program  
114 shall remit to the division of alcohol and drug abuse of the department of mental health the  
115 supplemental fee for all persons enrolled in the program, less two percent for administrative  
116 costs. The supplemental fees received by the department of mental health pursuant to this  
117 section shall be deposited in the mental health earnings fund which is created in section 630.053,  
118 RSMo.

                  302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309,  
2 the director of revenue shall return the license to the operator immediately upon the termination  
3 of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

4           2. Any operator whose license is revoked pursuant to these sections, upon the  
5 termination of the period of revocation, shall apply for a new license in the manner prescribed  
6 by law.

7           3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear  
8 applications and make eligibility determinations granting limited driving privileges. Any  
9 application may be made in writing to the director of revenue and the person's reasons for  
10 requesting the limited driving privilege shall be made therein.

11           (2) When any court of record having jurisdiction or the director of revenue finds that an  
12 operator is required to operate a motor vehicle in connection with any of the following:

13           (a) A business, occupation, or employment;

14           (b) Seeking medical treatment for such operator;

15           (c) Attending school or other institution of higher education;

16           (d) Attending alcohol or drug treatment programs; or

17           (e) Any other circumstance the court or director finds would create an undue hardship  
18 on the operator; the court or director may grant such limited driving privilege as the  
19 circumstances of the case justify if the court or director finds undue hardship would result to the  
20 individual, and while so operating a motor vehicle within the restrictions and limitations of the  
21 limited driving privilege the driver shall not be guilty of operating a motor vehicle without a  
22 valid license.

23           (3) An operator may make application to the proper court in the county in which such  
24 operator resides or in the county in which is located the operator's principal place of business or  
25 employment. Any application for a limited driving privilege made to a circuit court shall name  
26 the director as a party defendant and shall be served upon the director prior to the grant of any  
27 limited privilege, and shall be accompanied by a copy of the applicant's driving record as

28 certified by the director. Any applicant for a limited driving privilege shall have on file with the  
29 department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any  
30 application by a person who transports persons or property as classified in section 302.015 may  
31 be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if  
32 proof of financial responsibility does not accompany the application, or if the applicant does not  
33 have on file with the department of revenue proof of financial responsibility, the court or the  
34 director has discretion to grant the limited driving privilege to the person solely for the purpose  
35 of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and  
36 the limited driving privilege must state such restriction. When operating such vehicle under such  
37 restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for  
38 that vehicle.

39 (4) The court order or the director's grant of the limited driving privilege shall indicate  
40 the termination date of the privilege, which shall be not later than the end of the period of  
41 suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the  
42 director, and a copy shall be given to the driver which shall be carried by the driver whenever  
43 such driver operates a motor vehicle. The director of revenue upon granting a limited driving  
44 privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall  
45 carry a copy of the limited driving privilege while operating a motor vehicle. A conviction  
46 which results in the assessment of points pursuant to section 302.302, other than a violation of  
47 a municipal stop sign ordinance where no accident is involved, against a driver who is operating  
48 a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points  
49 are assessed to the person's driving record. If the date of arrest is prior to the issuance of the  
50 limited driving privilege, the privilege shall not be terminated. The director shall notify by  
51 ordinary mail the driver whose privilege is so terminated.

52 (5) Except as provided in subdivision (6) of this subsection, no person is eligible to  
53 receive a limited driving privilege who at the time of application for a limited driving privilege  
54 has previously been granted such a privilege within the immediately preceding five years, or  
55 whose license has been suspended or revoked for the following reasons:

56 (a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any  
57 similar provision of any federal or state law, or a municipal or county law where the judge in  
58 such case was an attorney and the defendant was represented by or waived the right to an  
59 attorney in writing, until the person has completed the first thirty days of a suspension or  
60 revocation imposed pursuant to this chapter;

61 (b) A conviction of any felony in the commission of which a motor vehicle was used;

62 (c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),  
63 (6), (7), (8), (9), (10) or (11) of section 302.060;



64 (d) Because of operating a motor vehicle under the influence of narcotic drugs, a  
65 controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as  
66 provided in section 577.060, RSMo;

67 (e) Due to a revocation for the first time for failure to submit to a chemical test pursuant  
68 to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if  
69 such person has not completed the first ninety days of such revocation;

70 (f) Violation more than once of the provisions of section 577.041, RSMo, or a similar  
71 implied consent law of any other state;

72 (g) Disqualification of a commercial driver's license pursuant to sections 302.700 to  
73 302.780, however, nothing in this subsection shall prevent a person holding a commercial  
74 driver's license who is suspended or revoked as a result of an action occurring while not driving  
75 a commercial motor vehicle or driving for pay, but while driving in an individual capacity as an  
76 operator of a personal vehicle from applying for a limited driving privilege to operate a  
77 commercial vehicle, if otherwise eligible for such limited privilege; or

78 (h) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not  
79 completed the first thirty days of such suspension, provided the person is not otherwise ineligible  
80 for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525  
81 if such person has not completed such revocation.

82 (6) (a) Provided that pursuant to the provisions of this section, the applicant is not  
83 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the  
84 manner prescribed in this subsection, allow a person who has had such person's license to operate  
85 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,  
86 as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege  
87 pursuant to this subsection if such person has served at least three years of such disqualification  
88 or revocation. Such person shall present evidence satisfactory to the court or the director that  
89 such person has not been convicted of any offense related to alcohol, controlled substances or  
90 drugs during the preceding three years and that the person's habits and conduct show that the  
91 person no longer poses a threat to the public safety of this state.

92 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise  
93 ineligible for a limited driving privilege or convicted of involuntary manslaughter while  
94 operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the  
95 manner prescribed in this subsection, allow a person who has had such person's license to operate  
96 a motor vehicle revoked where that person cannot obtain a new license for a period of five years  
97 because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of  
98 section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person  
99 has served at least two years of such disqualification or revocation. Such person shall present

evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

302.505. 1. The department shall suspend or revoke the license of any person upon its determination that the person was arrested upon probable cause to believe such person was driving a motor vehicle while the alcohol concentration in the person's blood, breath, or urine was [ten-hundredths] **eight-hundredths** of one percent or more by weight, based on the definition of alcohol concentration in section 302.500, or where such person was less than twenty-one years of age when stopped and was stopped upon probable cause to believe such person was driving while intoxicated in violation of section 577.010, RSMo, or driving with excessive blood alcohol content in violation of section 577.012, RSMo, or upon probable cause to believe such person violated a state, county or municipal traffic offense and such person was driving with a blood alcohol content of two-hundredths of one percent or more by weight.

2. The department shall make a determination of these facts on the basis of the report of a law enforcement officer required in section 302.510, and this determination shall be final unless a hearing is requested and held. If a hearing is held, the department shall review the

14 matter and make a final determination on the basis of evidence received at the hearing.

15         3. The determination of these facts by the department is independent of the determination  
16 of the same or similar facts in the adjudication of any criminal charges arising out of the same  
17 occurrence. The disposition of those criminal charges shall not affect any suspension or  
18 revocation under this section.

302.510. 1. Except as provided in subsection 3 of this section, a law enforcement officer  
2 who arrests any person for a violation of any state statute related to driving while intoxicated or  
3 for a violation of a county or municipal ordinance prohibiting driving while intoxicated or a  
4 county or municipal alcohol related traffic offense, and in which the alcohol concentration in the  
5 person's blood, breath, or urine was [ten-hundredths] **eight-hundredths** of one percent or more  
6 by weight or two-hundredths of one percent or more by weight for anyone less than twenty-one  
7 years of age, shall forward to the department a verified report of all information relevant to the  
8 enforcement action, including information which adequately identifies the arrested person, a  
9 statement of the officer's grounds for belief that the person violated any state statute related to  
10 driving while intoxicated or was less than twenty-one years of age and was driving with  
11 two-hundredths of one percent or more by weight of alcohol in the person's blood, or a county  
12 or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol  
13 related traffic offense, a report of the results of any chemical tests which were conducted, and  
14 a copy of the citation and complaint filed with the court.

15         2. The report required by this section shall be made on forms supplied by the department  
16 or in a manner specified by regulations of the department.

17         3. A county or municipal ordinance prohibiting driving while intoxicated or a county or  
18 municipal alcohol related traffic offense may not be the basis for suspension or revocation of a  
19 driver's license pursuant to sections 302.500 to 302.540, unless the arresting law enforcement  
20 officer, other than an elected peace officer or official, has been certified by the director of the  
21 department of public safety pursuant to the provisions of sections 590.100 to 590.180, RSMo.

302.520. 1. Whenever the chemical test results are available to the law enforcement  
2 officer while the arrested person is still in custody, and where the results show an alcohol  
3 concentration of [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol  
4 in such person's blood or where such person is less than twenty-one years of age and the results  
5 show that there is two-hundredths of one percent or more of alcohol in the person's blood, the  
6 officer, acting on behalf of the department, shall serve the notice of suspension or revocation  
7 personally on the arrested person.

8         2. When the law enforcement officer serves the notice of suspension or revocation, the  
9 officer shall take possession of any driver's license issued by this state which is held by the  
10 person. When the officer takes possession of a valid driver's license issued by this state, the

11 officer, acting on behalf of the department, shall issue a temporary permit which is valid for  
12 fifteen days after its date of issuance and shall also give the person arrested a notice which shall  
13 inform the person of all rights and responsibilities pursuant to sections 302.500 to 302.540. The  
14 notice shall be in such form so that the arrested person may sign the original as evidence of  
15 receipt thereof. The notice shall also contain a detachable form permitting the arrested person  
16 to request a hearing. Signing the hearing request form and mailing such request to the  
17 department shall constitute a formal application for a hearing.

18 3. A copy of the completed notice of suspension or revocation form, a copy of any  
19 completed temporary permit form, a copy of the notice of rights and responsibilities given to the  
20 arrested person, including any request for hearing, and any driver's license taken into possession  
21 pursuant to this section shall be forwarded to the department by the officer along with the report  
22 required in section 302.510.

23 4. The department shall provide forms for notice of suspension or revocation, for notice  
24 of rights and responsibilities, for request for a hearing and for temporary permits to law  
25 enforcement agencies.

302.535. 1. Any person aggrieved by a decision of the department may file a petition  
2 for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the  
3 evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not  
4 as an appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be  
5 filed in the circuit court of the county where the arrest occurred. The case shall be decided by  
6 the judge sitting without a jury. **Until January 1, 2002,** the presiding judge of the circuit court  
7 may assign a traffic judge, pursuant to section 479.500, RSMo 1994, a circuit judge or an  
8 associate circuit judge to hear such petition. **After January 1, 2002, pursuant to local court**  
9 **rule pursuant to Article V, Section 15 of the Missouri Constitution, the case may be**  
10 **assigned to a circuit judge or an associate circuit judge, or to a traffic judge pursuant to**  
11 **section 479.500, RSMo.**

12 2. The filing of a petition for trial de novo shall not result in a stay of the suspension or  
13 revocation order. But upon the filing of such petition, a restricted driving privilege for the  
14 limited purpose of driving in connection with the petitioner's business, occupation, employment,  
15 or formal program of secondary, postsecondary or higher education shall be issued by the  
16 department if the person's driving record shows no prior alcohol related enforcement contact  
17 during the immediately preceding five years. Such limited driving privilege shall terminate on  
18 the date of the disposition of the petition for trial de novo.

19 3. In addition to the limited driving privilege as permitted in subsection 2 of this section,  
20 the department may upon the filing of a petition for trial de novo issue a restricted driving  
21 privilege for the limited purpose of driving in connection with the petitioner's business,

22 occupation, employment, or formal program of secondary, postsecondary or higher education.  
23 In determining whether to issue such a restrictive driving privilege, the department shall consider  
24 the number and the seriousness of prior convictions and the entire driving record of the driver.

25 4. Such time of restricted driving privilege pending disposition of trial de novo shall be  
26 counted toward any time of restricted driving privilege imposed pursuant to section 302.525.  
27 Nothing in this subsection shall be construed to prevent a person from maintaining his restricted  
28 driving privilege for an additional sixty days in order to meet the conditions imposed by section  
29 302.540 for reinstating a person's driver's license.

302.540. 1. No person who has had a license to operate a motor vehicle suspended or  
2 revoked under the provisions of sections 302.500 to 302.540 shall have that license reinstated  
3 until such person has participated in and successfully completed a substance abuse traffic  
4 offender program defined in section 302.010, [except] **or a program determined to be**  
5 **comparable by** the department [may waive such requirement upon completion of a comparable  
6 program or upon good cause shown or the court may waive such requirement upon good cause  
7 shown. The court in making this determination shall consider the person's driving record, the  
8 circumstances surrounding the offense and the likelihood of the person committing a like offense  
9 in the future]. Assignment recommendations, based upon the needs assessment as described in  
10 subdivision (21) of section 302.010, shall be delivered in writing to the person with written  
11 notice that the person is entitled to have such assignment recommendations reviewed by the court  
12 if the person objects to the recommendations. The person may file a motion in the associate  
13 division of the circuit court, on a printed form provided by the state courts administrator, to have  
14 the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo[,  
15 after reviewing such assessment]. The motion shall name the person or entity making the needs  
16 assessment as the respondent and a copy of the motion shall be served upon the respondent in  
17 any manner allowed by law. [Such assessment and] **Upon hearing the motion, the court may**  
18 **modify or waive any assignment recommendation that the court determines to be**  
19 **unwarranted based upon a review of the needs assessment, the person's driving record, the**  
20 **circumstances surrounding the offense, and the likelihood of the person committing a like**  
21 **offense in the future, except that the court may modify but may not waive the assignment**  
22 **to an education or rehabilitation program of a person determined to be a prior or**  
23 **persistent offender as defined in section 577.023, RSMo, or of a person determined to have**  
24 **operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such**  
25 **persons' blood.** Compliance with the court determination of the motion shall satisfy the  
26 provisions of this section for the purpose of reinstating such person's license to operate a motor  
27 vehicle. The respondent's personal appearance at any hearing conducted pursuant to this  
28 subsection shall not be necessary unless directed by the court.

29           2. The fees for the program authorized in subsection 1 of this section, or a portion thereof  
30 to be determined by the division of alcohol and drug abuse of the department of mental health,  
31 shall be paid by the person enrolled in the program. Any person who is enrolled in the program  
32 shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The  
33 administrator of the program shall remit to the division of alcohol and drug abuse of the  
34 department of mental health the supplemental fee for all persons enrolled in the program, less  
35 two percent for administrative costs. The supplemental fees received by the department of  
36 mental health pursuant to this section shall be deposited in the mental health earnings fund which  
37 is created in section 630.053, RSMo.

38           3. Court-ordered participation in a substance abuse traffic offender program, pursuant  
39 to section 577.049, RSMo, shall satisfy the requirements of this section if the court action arose  
40 out of the same occurrence that resulted in a person's license being administratively suspended  
41 or revoked.

42           **4. The division of alcohol and drug abuse of the department of mental health may**  
43 **create a treatment demonstration project within existing appropriations and shall develop**  
44 **and certify a program to provide education or rehabilitation services for individuals**  
45 **determined by the division to be serious or repeat offenders. The program shall qualify**  
46 **as a substance abuse traffic offender program. As used in this subsection, a serious or**  
47 **repeat offender is one who was determined to have a blood alcohol content of fifteen-**  
48 **hundredths of one percent or more by weight while operating a motor vehicle or a prior**  
49 **or persistent offender as defined in section 577.023, RSMo.**

302.541. 1. In addition to other fees required by law, any person who has had a license  
2 to operate a motor vehicle suspended or revoked following a determination, pursuant to section  
3 302.505, or section 577.010, 577.012, 577.041 or 577.510, RSMo, or any county or municipal  
4 ordinance, where the judge in such case was an attorney and the defendant was represented by  
5 or waived the right to an attorney, that such person was driving while intoxicated or with a blood  
6 alcohol content of [ten-hundredths] **eight-hundredths** of one percent or more by weight or,  
7 where such person was at the time of the arrest less than twenty-one years of age and was driving  
8 with a blood alcohol content of two-hundredths of one percent or more by weight, shall pay an  
9 additional fee of twenty-five dollars prior to the reinstatement or reissuance of the license.

10           2. Any person less than twenty-one years of age whose driving privilege has been  
11 suspended or revoked solely for a first determination pursuant to sections 302.500 to 302.540  
12 that such person was driving a motor vehicle with two-hundredths of one percent or more blood  
13 alcohol content is exempt from filing proof of financial responsibility with the department of  
14 revenue in accordance with chapter 303, RSMo, as a prerequisite for reinstatement of driving  
15 privileges or obtaining a restricted driving privilege as provided by section 302.525.

**304.027. 1. There is hereby created in the state treasury for use by the board of curators of the University of Missouri a fund to be known as the "Spinal Cord Injury Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the spinal cord injury fund established pursuant to sections 302.133 to 302.138, RSMo, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the board of curators, be received and expended by the board for the purpose of funding research projects that promote an advancement of knowledge in the area of spinal cord injury. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the spinal cord injury fund at the end of any biennium shall not be transferred to the general revenue fund.**

**2. Any person who is convicted of an intoxication-related offense, as defined by section 577.023, RSMo, shall have a judgment entered against the defendant in favor of the spinal cord injury fund, in the amount of twenty-five dollars.**

**3. The judgments collected pursuant to this section shall be paid into the state treasury to the credit of the spinal cord injury fund created in this section. Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.**

**479.500. 1. In the twenty-first judicial circuit, a majority of the circuit judges, en banc, may establish a traffic court, which shall be a division of the circuit court, and may authorize the appointment of not more than three municipal judges who shall be known as traffic judges. The traffic judges shall be appointed by a traffic court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the county executive of St. Louis County, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the traffic court judicial commission shall be established by circuit court rule.**

**2. Traffic judges may be authorized to act as commissioners to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by circuit court rule. Traffic judges may also be authorized to hear in the first instance violations of county and municipal ordinances involving motor vehicles, and other county ordinance violations, as provided by circuit court rule.**

**3. In the event that a county municipal court is established pursuant to section 66.010, RSMo, which takes jurisdiction of county ordinance violations the circuit court may then authorize the appointment of no more than two traffic judges authorized to hear municipal**

19 ordinance violations other than county ordinance violations, and to act as commissioner to hear  
20 in the first instance nonfelony violations of state law involving motor vehicles, and such other  
21 offenses as may be provided by rule. These traffic court judges also may be authorized to act as  
22 commissioners to hear in the first instance petitions to review decisions of the department of  
23 revenue or the director of revenue filed pursuant to sections 302.309[,] **and 302.311, [302.535**  
24 **and 302.750,] RSMo, and, prior to January 1, 2002, pursuant to sections 302.535 and**  
25 **302.750, RSMo.**

26 **4. After January 1, 2002, traffic judges, in addition to the authority provided in**  
27 **subsection 3 of this section, may be authorized by local court rule adopted pursuant to**  
28 **Article V, Section 15 of the Missouri Constitution to conduct proceedings pursuant to**  
29 **section 302.535 and 302.750, RSMo, subject to procedures that preserve a meaningful**  
30 **hearing before a judge of the circuit court, as follows:**

31 **(1) Conduct the initial call docket and accept uncontested dispositions of petitions**  
32 **to review;**

33 **(2) The petitioner shall have the right to the de novo hearing before a judge of the**  
34 **circuit court, except that, at the option of the petitioner, traffic judges may hear in the first**  
35 **instance such petitions for review.**

36 [4.] **5.** In establishing a traffic court, the circuit may be divided into such sectors as may  
37 be established by a majority of the circuit and associate circuit judges, en banc. The traffic court  
38 in each sector shall hear those cases arising within the territorial limits of the sector unless a case  
39 arising within another sector is transferred as provided by operating procedures.

40 [5.] **6.** Traffic judges shall be licensed to practice law in this state and shall serve at the  
41 pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents  
42 of St. Louis County, and shall receive from the state as annual compensation an amount equal  
43 to one-third of the annual compensation of an associate circuit judge. Each judge shall devote  
44 approximately one-third of his working time to the performance of his duties as a traffic judge.  
45 Traffic judges shall not accept or handle cases in their practice of law which are inconsistent with  
46 their duties as a traffic judge and shall not be a judge or prosecutor for any other court. Traffic  
47 judges shall not be considered state employees and shall not be members of the state employees'  
48 or judicial retirement system or be eligible to receive any other employment benefit accorded  
49 state employees or judges.

50 [6.] **7.** A majority of the judges, en banc, shall establish operating procedures for the  
51 traffic court which shall provide for regular sessions in the evenings after 6:00 p.m. and for  
52 Saturday or other sessions as efficient operation and convenience to the public may require.  
53 Proceedings in the traffic court, except when a judge is acting as a commissioner pursuant to this  
54 section, shall be conducted as provided in supreme court rule 37. The hearing shall be before



55 a traffic judge without jury, and the judge shall assume an affirmative duty to determine the  
56 merits of the evidence presented and the defenses of the defendant and may question parties and  
57 witnesses. [No term of imprisonment or confinement may be assessed by a traffic judge.] In the  
58 event a jury trial is requested, the cause shall be certified to the circuit court for trial by jury as  
59 otherwise provided by law. Clerks and computer personnel shall be assigned as needed for the  
60 efficient operation of the court.

61 [7.] **8.** In establishing operating procedure, provisions shall be made for appropriate  
62 circumstances whereby defendants may enter not guilty pleas and obtain trial dates by telephone  
63 or written communication without personal appearance, or to plead guilty and deliver by mail  
64 or electronic transfer or other approved method the specified amount of the fine and costs as  
65 otherwise provided by law, within a specified period of time.

66 [8.] **9.** Operating procedures shall be provided for electronic recording of proceedings,  
67 except that if adequate recording equipment is not provided at county expense, then, in that  
68 event, a person aggrieved by a judgment of a traffic judge or commissioner shall have the right  
69 of a trial de novo. The procedures for perfecting the right of a trial de novo shall be the same as  
70 that provided under sections 512.180 to 512.320, RSMo, except that the provisions of subsection  
71 2 of section 512.180, RSMo, shall not apply to such cases.

72 [9.] **10.** The circuit court shall only have the authority to appoint two commissioners with  
73 the jurisdiction provided in subsection 3 of this section.

74 [10.] **11.** All costs to establish and operate a county municipal court under section  
75 66.010, RSMo, and this section shall be borne by such county.

577.012. 1. A person commits the crime of "driving with excessive blood alcohol  
2 content" if such person operates a motor vehicle in this state with [ten-hundredths] **eight-**  
3 **hundredths** of one percent or more by weight of alcohol in such person's blood.

4 2. As used in this section, percent by weight of alcohol in the blood shall be based upon  
5 grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may  
6 be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes  
7 of determining the alcoholic content of a person's blood under this section, the test shall be  
8 conducted in accordance with the provisions of sections 577.020 to 577.041.

9 3. For the first offense, driving with excessive blood alcohol content is a class [C] **B**  
10 misdemeanor.

577.021. [A member of the state highway patrol] **Any state, county or municipal law**  
2 **enforcement officer who has the power of arrest for violations of section 577.010 or 577.012**  
3 **and who is certified pursuant to chapter 590, RSMo,** may, prior to arrest, administer a  
4 chemical test to any person suspected of operating a motor vehicle in violation of section  
5 577.010 or 577.012. A test administered pursuant to this section shall be admissible as evidence

6 of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence  
7 of blood alcohol content. The provisions of section 577.020 shall not apply to a test  
8 administered prior to arrest pursuant to this section.

577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

2 (1) An "intoxication-related traffic offense" is driving while intoxicated, driving with  
3 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of  
4 subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4)  
5 of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second  
6 degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving under  
7 the influence of alcohol or drugs in violation of state law or a county or municipal ordinance,  
8 where the judge in such case was an attorney and the defendant was represented by or waived  
9 the right to an attorney in writing;

10 (2) A "persistent offender" is one of the following:

11 (a) A person who has pleaded guilty to or has been found guilty of two or more  
12 intoxication-related traffic offenses, where such two or more offenses occurred within ten years  
13 of the occurrence of the intoxication-related traffic offense for which the person is charged;

14 (b) A person who has pleaded guilty to or has been found guilty of involuntary  
15 manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree  
16 pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law  
17 enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section  
18 565.082, RSMo; and

19 (3) A "prior offender" is a person who has pleaded guilty to or has been found guilty of  
20 one intoxication-related traffic offense, where such prior offense occurred within five years of  
21 the occurrence of the intoxication-related traffic offense for which the person is charged.

22 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010  
23 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A  
24 misdemeanor.

25 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010  
26 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D  
27 felony.

28 4. No court shall suspend the imposition of sentence as to a prior or persistent offender  
29 under this section nor sentence such person to pay a fine in lieu of a term of imprisonment,  
30 section 557.011, RSMo, to the contrary notwithstanding[, nor shall such person]. No prior  
31 offender shall be eligible for parole or probation until he has served a minimum of [forty-eight  
32 consecutive hours] **five days** imprisonment, unless as a condition of such parole or probation  
33 such person performs at least [ten] **thirty** days of community service under the supervision of

34 the court in those jurisdictions which have a recognized program for community service. **No**  
35 **persistent offender shall be eligible for parole or probation until he or she has served a**  
36 **minimum of ten days imprisonment, unless as a condition of such parole or probation such**  
37 **person performs at least sixty days of community service under the supervision of the**  
38 **court.**

39 5. The court shall find the defendant to be a prior offender or persistent offender, if:

40 (1) The indictment or information, original or amended, or the information in lieu of an  
41 indictment pleads all essential facts warranting a finding that the defendant is a prior offender  
42 or persistent offender; and

43 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding  
44 beyond a reasonable doubt the defendant is a prior offender or persistent offender; and

45 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt  
46 by the court that the defendant is a prior offender or persistent offender.

47 6. In a jury trial, the facts shall be pleaded, established and found prior to submission to  
48 the jury outside of its hearing.

49 7. In a trial without a jury or upon a plea of guilty, the court may defer the proof in  
50 findings of such facts to a later time, but prior to sentencing.

51 8. The defendant shall be accorded full rights of confrontation and cross-examination,  
52 with the opportunity to present evidence, at such hearings.

53 9. The defendant may waive proof of the facts alleged.

54 10. Nothing in this section shall prevent the use of presentence investigations or  
55 commitments.

56 11. At the sentencing hearing both the state and the defendant shall be permitted to  
57 present additional information bearing on the issue of sentence.

58 12. The pleas or findings of guilty shall be prior to the date of commission of the present  
59 offense.

60 13. The court shall not instruct the jury as to the range of punishment or allow the jury,  
61 upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of  
62 prior offenders or persistent offenders.

63 14. Evidence of prior convictions shall be heard and determined by the trial court out of  
64 the hearing of the jury prior to the submission of the case to the jury, and shall include but not  
65 be limited to evidence of convictions received by a search of the records of the Missouri uniform  
66 law enforcement system maintained by the Missouri state highway patrol. After hearing the  
67 evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal  
68 or county ordinance in a county or municipal court for driving while intoxicated or a conviction  
69 or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence,

70 suspended execution of sentence, probation or parole or any combination thereof in a state court  
71 shall be treated as a prior conviction.

577.037. 1. Upon the trial of any person for violation of any of the provisions of section  
2 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of  
3 any criminal action or violations of county or municipal ordinances or in any license suspension  
4 or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts  
5 alleged to have been committed by any person while driving a motor vehicle while in an  
6 intoxicated condition, the amount of alcohol in the person's blood at the time of the act alleged  
7 as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in  
8 evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the  
9 admissibility or introduction of such evidence if otherwise admissible. If there was  
10 [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in the person's  
11 blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen  
12 was taken.

13 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per  
14 one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

15 3. The foregoing provisions of this section shall not be construed as limiting the  
16 introduction of any other competent evidence bearing upon the question whether the person was  
17 intoxicated.

18 4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise  
19 to the presumption or to have the effect provided for in subsection 1 of this section, shall have  
20 been performed as provided in sections 577.020 to 577.041 and in accordance with methods and  
21 standards approved by the state department of health.

22 5. Any charge alleging a violation of section 577.010 or 577.012 or any county or  
23 municipal ordinance prohibiting driving while intoxicated or driving under the influence of  
24 alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood,  
25 saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated  
26 thereunder by the state department of health demonstrate that there was less than  
27 [ten-hundredths] **eight-hundredths** of one percent of alcohol in the defendant's blood unless one  
28 or more of the following considerations cause the court to find a dismissal unwarranted:

29 (1) There is evidence that the chemical analysis is unreliable as evidence of the  
30 defendant's intoxication at the time of the alleged violation due to the lapse of time between the  
31 alleged violation and the obtaining of the specimen;

32 (2) There is evidence that the defendant was under the influence of a controlled  
33 substance, or drug, or a combination of either or both with or without alcohol; or

34 (3) There is substantial evidence of intoxication from physical observations of witnesses

35 or admissions of the defendant.

577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision  
2 (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to  
3 any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal  
4 shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section  
5 577.010 or 577.012. The request of the officer shall include the reasons of the officer for  
6 requesting the person to submit to a test and also shall inform the person that evidence of refusal  
7 to take the test may be used against such person and that the person's license shall be  
8 immediately revoked upon refusal to take the test. If a person when requested to submit to any  
9 test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be  
10 granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the  
11 twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a  
12 refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of  
13 license revocation personally upon the person and shall take possession of any license to operate  
14 a motor vehicle issued by this state which is held by that person. The officer shall issue a  
15 temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall  
16 also give the person a notice of such person's right to file a petition for review to contest the  
17 license revocation.

18 2. The officer shall make a sworn report to the director of revenue, which shall include  
19 the following:

20 (1) That the officer has:

21 (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle  
22 while in an intoxicated or drugged condition; or

23 (b) Reasonable grounds to believe that the person stopped, being under the age of  
24 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths  
25 of one percent or more by weight; or

26 (c) Reasonable grounds to believe that the person stopped, being under the age of  
27 twenty-one years, was committing a violation of the traffic laws of the state, or political  
28 subdivision of the state, and such officer has reasonable grounds to believe, after making such  
29 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

30 (2) That the person refused to submit to a chemical test;

31 (3) Whether the officer secured the license to operate a motor vehicle of the person;

32 (4) Whether the officer issued a fifteen-day temporary permit;

33 (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice  
34 of the right to file a petition for review, which notices and permit may be combined in one  
35 document; and

36 (6) Any license to operate a motor vehicle which the officer has taken into possession.

37 3. Upon receipt of the officer's report, the director shall revoke the license of the person  
38 refusing to take the test for a period of one year; or if the person is a nonresident, such person's  
39 operating permit or privilege shall be revoked for one year; or if the person is a resident without  
40 a license or permit to operate a motor vehicle in this state, an order shall be issued denying the  
41 person the issuance of a license or permit for a period of one year.

42 4. If a person's license has been revoked because of the person's refusal to submit to a  
43 chemical test, such person may petition for a hearing before a circuit or associate circuit court  
44 in the county in which the arrest or stop occurred. The person may request such court to issue  
45 an order staying the revocation until such time as the petition for review can be heard. If the  
46 court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the  
47 director of revenue and shall send a copy of such order to the director. Such order shall serve  
48 as proof of the privilege to operate a motor vehicle in this state and the director shall maintain  
49 possession of the person's license to operate a motor vehicle until termination of any revocation  
50 pursuant to this section. Upon the person's request the clerk of the court shall notify the  
51 prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the  
52 director of revenue. At the hearing the court shall determine only:

53 (1) Whether or not the person was arrested or stopped;

54 (2) Whether or not the officer had:

55 (a) Reasonable grounds to believe that the person was driving a motor vehicle while in  
56 an intoxicated or drugged condition; or

57 (b) Reasonable grounds to believe that the person stopped, being under the age of  
58 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths  
59 of one percent or more by weight; or

60 (c) Reasonable grounds to believe that the person stopped, being under the age of  
61 twenty-one years, was committing a violation of the traffic laws of the state, or political  
62 subdivision of the state, and such officer had reasonable grounds to believe, after making such  
63 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

64 (3) Whether or not the person refused to submit to the test.

65 5. If the court determines any issue not to be in the affirmative, the court shall order the  
66 director to reinstate the license or permit to drive.

67 6. Requests for review as provided in this section shall go to the head of the docket of  
68 the court wherein filed.

69 7. No person who has had a license to operate a motor vehicle suspended or revoked  
70 pursuant to the provisions of this section shall have that license reinstated until such person has  
71 participated in and successfully completed a substance abuse traffic offender program defined

72 in section 577.001, [except] **or a program determined to be comparable by** the department  
73 or the court [may waive such requirement upon completion of a comparable program or upon  
74 good cause shown or the court may waive such requirement upon good cause shown. The court  
75 in making this determination shall consider the person's driving record, the circumstances  
76 surrounding the offense and the likelihood of the person committing a like offense in the future].  
77 Assignment recommendations, based upon the needs assessment as described in subdivision (21)  
78 of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the  
79 person is entitled to have such assignment recommendations reviewed by the court if the person  
80 objects to the recommendations. The person may file a motion in the associate division of the  
81 circuit court, on a printed form provided by the state courts administrator, to have the court hear  
82 and determine such motion pursuant to the provisions of chapter 517, RSMo[, after reviewing  
83 such assessment]. The motion shall name the person or entity making the needs assessment as  
84 the respondent and a copy of the motion shall be served upon the respondent in any manner  
85 allowed by law. [Such assessment and] **Upon hearing the motion, the court may modify or**  
86 **waive any assignment recommendation that the court determines to be unwarranted based**  
87 **upon a review of the needs assessment, the person's driving record, the circumstances**  
88 **surrounding the offense, and the likelihood of the person committing a like offense in the**  
89 **future, except that the court may modify but may not waive the assignment to an education**  
90 **or rehabilitation program of a person determined to be a prior or persistent offender as**  
91 **defined in section 577.023, RSMo, or of a person determined to have operated a motor**  
92 **vehicle with fifteen-hundredths of one percent or more by weight in such persons' blood.**  
93 Compliance with the court determination of the motion shall satisfy the provisions of this section  
94 for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's  
95 personal appearance at any hearing conducted pursuant to this subsection shall not be necessary  
96 unless directed by the court.

97 8. The fees for the substance abuse traffic offender program, or a portion thereof to be  
98 determined by the division of alcohol and drug abuse of the department of mental health, shall  
99 be paid by the person enrolled in the program. Any person who is enrolled in the program shall  
100 pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The  
101 administrator of the program shall remit to the division of alcohol and drug abuse of the  
102 department of mental health the supplemental fee for all persons enrolled in the program, less  
103 two percent for administrative costs. The supplemental fees received by the department of  
104 mental health pursuant to this section shall be deposited in the mental health earnings fund which  
105 is created in section 630.053, RSMo.

577.600. 1. [Beginning January 1, 1996,] In addition to any other provisions of law, a  
2 court may require that any person who is found guilty of or pleads guilty to a first

3 intoxication-related traffic offense, as defined in section 577.023, and a court shall require that  
4 any person who is found guilty of or pleads guilty to a second **or subsequent** intoxication-related  
5 traffic offense, as defined in section 577.023, [who was granted probation,] shall not operate [a]  
6 **any** motor vehicle [during the period of probation] unless that vehicle is equipped with a  
7 functioning, certified ignition interlock device [as provided in sections 577.600 to 577.614] **for**  
8 **a period of not less than one month from the date of reinstatement of the person's drivers**  
9 **license**. In addition, any court authorized to grant a limited driving privilege under section  
10 302.309, RSMo, [may] **to any person who is found guilty or pleads guilty to a second or**  
11 **subsequent intoxication-related traffic offense shall** require the use of an ignition interlock  
12 device **on all vehicles operated by the person** as a **required** condition of the limited driving  
13 privilege. Any person required to use an ignition interlock device shall comply with the court  
14 order, subject to the penalties provided by [sections 577.600 to 577.614] **this section**.

15       2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to  
16 have had [his] **that person's** driving privilege restricted as provided in subsection 1 of this  
17 section, unless the vehicle is equipped with a functioning, certified ignition interlock device.  
18 Any person whose driving privilege is restricted as provided in subsection 1 of this section shall  
19 notify any other person who rents, leases or loans a motor vehicle to [him] **that person** of the  
20 driving restriction imposed [under] **pursuant to** this section.

21       3. Any person convicted of a violation of this section shall be guilty of a class A  
22 misdemeanor.

577.602. 1. [No court shall require the use of an ignition interlock device until it has  
2 made an affirmative finding that such a requirement will not impose any undue hardship by  
3 reason of the cost of the device or by reason of the difficulties associated with any necessary  
4 installation, testing, calibration, servicing or removal of the device. No court shall be required  
5 to require a person who is found guilty of or pleads guilty to a second intoxication-related traffic  
6 offense, as defined in section 577.023, to use an ignition interlock device as a condition of a  
7 limited driving privilege if such a device cannot be installed within fifty miles of the county seat  
8 of such person's county of residence; however, the court in such case may, in its discretion,  
9 require the use of such a device.

10       2.] If a court imposes a fine and requires the use of an ignition interlock device for the  
11 same offense, the amount of the fine may be reduced by the cost of the ignition interlock device.

12       [3.] **2.** If the court requires the use of an ignition interlock device, it shall order the  
13 installation of the device on any vehicle which the [probationer] **offender** operates during the  
14 period of probation or limited driving privilege.

15       [4.] **3.** If the court imposes the use of an ignition interlock device on a person having full  
16 or limited driving privileges, the court shall require the person to provide proof of compliance



17 with the order to the court or the probation officer within thirty days of this court's order or  
18 sooner, as required by the court. If the person fails to provide proof of installation within that  
19 period, absent a finding by the court of good cause for that failure which is entered in the court  
20 record, the court shall revoke or terminate the person's probation or limited driving privilege.

21 [5.] 4. Nothing in sections 577.600 to 577.614 shall be construed to authorize a person  
22 to operate a motor vehicle whose driving privileges have been suspended or revoked, unless the  
23 person has obtained a limited driving privilege or restricted driving privilege under other  
24 provisions of law.

25 [6.] 5. The person whose driving privilege is restricted pursuant to section 577.600 shall  
26 report to the court or the probation officer at least once annually, or more frequently as the court  
27 may order, on the operation of each ignition interlock device in the person's vehicle or vehicles.  
28 Such person shall be responsible for the cost and maintenance of the ignition interlock device.  
29 If such device is broken, destroyed or stolen, such person shall also be liable for the cost of  
30 replacement of the device.

31 [7.] 6. The court may require a person whose driving privilege is restricted under section  
32 577.600 to report to any officer appointed by the court in lieu of a probation officer.

33 [8.] 7. The court shall require periodic calibration checks that are needed for the proper  
34 operation of the ignition interlock device.

Section B. The repeal and reenactment of sections 302.302, 302.309, 302.505, 302.510,  
2 302.520, 302.541, 577.012, 577.023 and 577.037 shall become effective September 29, 2001.